

February 5, 1999

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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**CORRECTED REPORT AND DECISION ON APPLICATION FOR PRELIMINARY PLAT
AND ORDER DISMISSING APPEALS.**

SUBJECT: Department of Development and Environmental Services File Nos. **L96P0019 / E96E0159**

UPLANDS ON THE PLATEAU DIVISION 2

Preliminary Plat Application and
SEPA Appeals

Location: Lying approximately between SE 47th Way and SE 48th Street, and between Issaquah-Pine Lake Road and 232nd Avenue SE (if extended)

Property Owner: Fred Milkie
127 Boyleston East
Seattle, WA 98102
Telephone: (206) 324-3000

Applicant: Fred Milkie, *represented by* **Joel Haggard, Esq.**
1200 Fifth Avenue, Suite 1200
Seattle, WA 98101
Telephone: 206 682-5635
Facsimile: 206 623-5263

Appellants:	Robert W. Catterall and Upland Homeowners' Assn. 4628 - 238th Way SE Issaquah, WA 98029 Telephone (425) 392-2278 Facsimile (425) 392-6581	<i>Represented by</i> J. Richard Aramburu, Esq. 505 Madison Street #209 Seattle, WA 98104 Telephone: (206) 625-9515 Facsimile: (206) 682-1376
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County:	Lanny Heno DDES/LUSD 900 Oakesdale Avenue SW Renton, WA 98055-1219 Telephone: (206) 296-7168 Facsimile: (206) 296-6613	Dick Etherington (KCDOT) Transportation Planning 821 2 nd Avenue Seattle, WA 98104 Telephone: (206) 689-4709 Facsimile: (206) 689-4750
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SUMMARY OF RECOMMENDATIONS AND DECISION:

Department's Preliminary:	Approve, subject to conditions
Department's Final:	Approve, subject to conditions (modified)
Examiner:	Approve, subject to conditions (modified)

PRELIMINARY MATTERS:

Application or petition submitted:	September 9, 1996
Complete application:	September 15, 1997
Notice of appeals received by Examiner:	October 29, 1998
Appeal statements received by Examiner:	October 29, 1998

EXAMINER PROCEEDINGS:

Pre-Hearing Conference:	November 17, 1998
Hearing on Motions:	December 9, 1998
Hearing Opened:	January 19, 1999, 9:30 a.m.
Hearing Closed:	January 19, 1999, 11:15 a.m.

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES/TOPICS ADDRESSED:

- Discovery
- Sensitive area buffers
- Surface water detention

FINDINGS, CONCLUSIONS, ORDER & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:**1. General Information:**

Owner/Developer:	Fred Milkie 127 Boyleston East Seattle, WA 98102 (206) 324-3000
Engineer:	Eastside Consultants, Inc. 415 Rainier Boulevard North Issaquah, WA 98027 (425) 392-5351
Location:	Lying approximately between SE 47th Way and SE 48th Street, and between Issaquah-Pine Lake Road and 232nd Avenue SE (if extended)
STR:	25-35-06

Zoning:	R-4-P
Acreage:	10.76
Number of Lots:	35
Density:	Approximately 3.4 dwelling units per acre
Typical Lot Size:	Ranges from 2,651 to 4,998 square feet
Proposed Use:	Townhouses
Sewage Disposal:	Sammamish Plateau Water & Sewer District
Water Supply:	Sammamish Plateau Water & Sewer District
Fire District:	No. 10
School District:	Issaquah School District No. 410
Complete Application Date:	September 15, 1997

2. Except as modified below, the facts set forth in the King County Land Use Services Division's Preliminary Report to the King County Hearing Examiner for the January 19, 1999 public hearing are found to be correct and are incorporated herein by this reference. The said report is Exhibit No. 2 in the record of this hearing.
3. The appellant Upland Homeowners Association appeared at the public hearing and withdrew its appeal of the Mitigated Determination of Environmental Nonsignificance, based upon a Stipulated Agreement with the applicant. Withdrawal of the UHA appeal is subject to King County approval of certain minor modifications to the proposed plat. Those modifications were presented at the hearing, and have been incorporated by the hearing examiner into this decision.
4. The appellant Robert Catterall failed to provide discovery as required by the Pre-Hearing Order, and failed to appear at the public hearing. On motion by the applicant, the hearing examiner ordered that the appeal of Robert Catterall be dismissed.
5. The revised preliminary plat reviewed by the Land Use Services Division for the public hearing was received on October 22, 1998. The following modifications to that plat were proposed by the applicant at the hearing:

The northerly portion of Tract "F", lying adjacent to and north of the Road A permanent cul-de-sac, is proposed to be deleted from Tract "F" and added to Tract "E" ("open space").

Proposed Lot No. 1 is to be deleted, and its area added to Tract "D" ("open space").

Proposed Lot No. 33 is to be deleted, and its area added to open space.

Proposed Lot No. 34 is to be moved from its location on the October 22, 1998 plat and relocated to the area adjacent to Proposed Lot No. 21, reducing the area of Tract "A" ("recreation space").

The area of Proposed Lots Nos. 34 - 36 is to be reconfigured into two lots.

A 10-foot-wide landscape easement will be established within the northerly 10 feet of Tract "D".

6. The northerly portion of Tract "F", which is proposed to be deleted and added to Tract "E", contains a piped drainage feature which is not a sensitive area. The applicant's revised proposal does not eliminate any sensitive area or sensitive area buffer required by the King County Code.

The reduction of recreation space which will occur from the re-location of Lot 34 will be approximately 4,000 square feet. The remaining recreation space, approximately 22,000 square feet, exceeds the recreation space required for this development by KCC 21A.14.180.

7. The applicant has submitted to the Department of Development and Environmental Services an application for a variance from the King County Surface Water Design Manual, to permit the computation and development of stormwater detention facilities in accordance with the 1998 Surface Water Drainage Manual. (The vesting date of the application precedes adoption of the 1998 Surface Water Drainage Manual.) The purpose of the variance application is to allow use of the Santa Barbara Urban Hydrograph for purposes of computation. This is permitted by the 1998 Manual because the continuous flow model was not readily available for use when the drainage calculations for this proposal were initially made.

Increases in surface water flows from properties developed previously in the basin, upstream of properties owned by Robert Catterall and Maynard Nelsen, have resulted in increased ponding on those properties. The preponderance of the evidence indicates that this effect has resulted from inadequacy or lack of maintenance of existing drainage tile on the Catterall and Nelsen properties, and a downstream culvert which functions as an outlet from the affected properties.

The King County Review Engineer testified that use of the Santa Barbara Urban Hydrograph for this proposal would provide sufficient over-detention, with a release rate less than current conditions, for 24-hour design event storms. This would be consistent with the requirements of the East Lake Sammamish Basin Plan and the mitigating measures required by the Mitigated Determination of Nonsignificance for this proposal. DDES revised at the hearing its recommendation contained in Proposed Condition No. 7.e so as to allow computation of detention requirements to be made using the SBUH methodology as an alternative to the calibrated continuous flow simulation models which are now available.

The preponderance of the evidence indicates that this development, if constructed in accordance with the conditions recommended by DDES, will not exacerbate existing problems on the Catterall and Nelsen properties. Correction of the existing problems is not the responsibility of the developer of this plat.

8. The owner of property adjacent to the east of the southeast boundary of the subject property has filed an application for development which resulted in a dispute between that applicant and King County. That dispute is whether a feature on that property is or is not a stream subject to the King County Sensitive Areas Code. That dispute is currently pending in King County Superior Court. The parties request that no action or determination made in this proceeding prejudice the outcome of the pending Superior Court action.

A drainage feature which flows into the adjacent property has been labeled a "stream" in documents generated by DDES in the review of the subject plat. Since the buffer required from a Class 3 stream is not of concern to the applicant in this proceeding, he has not contested the stream designation. Consequently, the hearing examiner refused to entertain testimony by any party concerning the nature of the drainage feature on the subject property, and expressly advised all parties that the examiner's decision in this proceeding is not intended to have any effect or implication concerning the characterization of any drainage, stream, or other water features located on this or adjacent properties, in either this or any other proceeding.

CONCLUSIONS:

1. The appeals of Upland Homeowners Association and Robert W. Catterall of the Mitigated Determination of Environmental Nonsignificance issued on October 2, 1998 should be dismissed.
2. In order to facilitate the final review of the proposed plat, a revised preliminary plat map which reflects the changes proposed by the applicant at the public hearing must be submitted by the applicant to the Land Use Services Division as an exhibit in the record of this proceeding.
3. The requirements of the King County Code and the East Lake Sammamish Basin Plan, and the conditions of the Mitigated Determination of Environmental Nonsignificance concerning surface water run-off volume and quality, can be met, and the public health, safety and welfare reasonably protected, by implementing surface water detention requirements computed using either the Santa Barbara Urban Hydrograph or continuous flow modeling.
4. The action taken by King County in this proceeding, and all factual determinations and conclusions made herein, should be excluded from consideration in any administrative or judicial proceeding conducted for the purpose of determining the nature of surface water features on any other property.
5. If approved subject to the conditions set forth below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, East Lake Sammamish Community Plan, Subdivision and Zoning Codes, and other official land use controls and policies of King County.
6. If approved subject to the conditions set forth below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare and for open spaces, for drainage ways, streets, other public ways, transit stops, potable water supply, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and safe walking conditions for students who only walk to school; and it will serve the public use and interest.
7. The conditions for final plat approval set forth below are in the public interest and are reasonable requirements to mitigate the impacts of this development upon the environment.
8. The dedications of land or easements within and adjacent to the proposed plat, as required by the conditions for final plat approval or as shown on the proposed preliminary plat submitted by the applicant, are reasonable and necessary as a direct result of the development of this proposed plat.

ORDER AND DECISION:

The appeals of Upland Homeowners Association and Robert W. Catterall of the Mitigated Determination of Environmental Nonsignificance issued on October 2, 1998 are DISMISSED.

The application for preliminary approval of the proposed plat of UPLANDS ON THE PLATEAU DIVISION 2, as revised and received on October 22, 1998, and further revised by Exhibit Nos. 35 and 36 in the oral presentation of the applicant at the public hearing, is APPROVED, subject to the following conditions of final plat approval:

1. The applicant shall submit to the King County Hearing Examiner, Department of Development and Environmental Services Land Use Services Division, and Upland Homeowners Association, within ten (10) days of this decision, a revised preliminary plat consistent with Exhibit No. 11, as revised by Exhibit Nos. 35 and 36 and the oral representations of the applicant at the January 19,

1999 public hearing. The said revised plat shall be entered into the record of this proceeding as Exhibit No. 38. Any of the designated recipients may request that the public hearing on this application be reopened by communicating that request within seven calendar days of Exhibit No. 38.

- 1a. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the base density and minimum density requirements of the R-4 zone classification. All lots on the final plat shall be generally as shown on the face of the approved preliminary plat (Exhibit No. 38), except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services (DDES).
4. The applicant must obtain final approval from the King County Health Department.
5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards (KCRS), established and adopted by Ordinance No. 11187.
6. The applicant must obtain the approval of the King County Fire Protection Engineer, regarding the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.
7. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements of KCC 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during the engineering and final plat review.
 - a. Drainage plans and analysis shall comply with the 1990 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by LUSD Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings #_____ on file with DDES and/or the Department of Transportation. This plan shall be submitted with the application for any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with the plans on file."

- d. Two drainage tracts are proposed for the control of stormwater. The outlet of Tract C currently has restricted capacity in the culvert beneath SE 48th Street. The final engineering plans shall be designed to prevent future flooding of the roadway by raising the road elevation within the sag curve, and providing conveyance pipes with adequate capacity.
 - e. Storm water runoff control shall be provided using the area specific design standard (BW-2) shown in the East Lake Sammamish Basin Plan. In accordance with the 1990 drainage manual, the SBUH methodology using the 24-hour storm shall be used for the design. Water quality facilities shall be designed in accordance with the adopted SEPA mitigations for this project (see Condition 26 below). The size of the proposed drainage tracts may need to increase to accommodate the required detention storage volumes and water quality designs. The runoff control facilities shall be located in a separate tract and dedicated to King County.
 - f. An existing pipe and drainage easement in the western portion of the property conveys off-site storm water from the adjacent plat of Uplands on the Plateau. This conveyance system and easement shall be re-located as necessary for final plat development. Off-site drainage shall bypass the runoff control facilities in accordance with Core Requirement No. 3 in the Design Manual.
8. The proposed subdivision shall comply with the following:
- a. During preliminary review, the applicant submitted a road variance application (File No. L98V0034) regarding reductions in sight distance along SE 48th Street, and the cul-de-sac length for interior roads. The County Road Engineer's variance decision is contained within three separate letters dated June 12, 1998, August 31, 1998, and October 30, 1998. The final engineering plans shall be designed to comply with the variance decisions. In summary, the Road Engineer required frontage improvements along SE 48th Street to meet neighborhood collector standards, with the exception of the sag curve near the west plat boundary which may be illuminated to provide nighttime stopping sight distance. The proposed on-site cul-de-sac has been approved with a length of approximately 800 feet. The western extension of the on-site road shall be designed as a stub road with a temporary cul-de-sac, and public right-of-way extending to Tax Lots 47 and 52 as shown on the preliminary plat map.
 - b. Frontage improvements shall be provided along SE 48th Street and shall be designed to urban neighborhood collector standards. The existing vertical alignment of the roadway shall be reconstructed to meet King County Road Standards, or as otherwise allowed in the approved road variance. For those portions of the road reconstructed to full width standards, the south half may be improved using an 11-foot land and 8-foot shoulder. The road improvements may involve alterations to a wetland on the south side of SE 48th Street, and a stream located near the southeast property corner. The applicant's engineering plans shall be designed to mitigate impacts to these sensitive areas (see Condition 17 below).
 - c. The portion of Road A lying east of Road B shall be improved as an urban minor access street, with a permanent turnaround bulb at its terminus. The portion of Road A west of Road B shall be improved as an urban subaccess street, with a temporary turnaround bulb at its terminus. Road B shall be improved as an urban subcollector.

- d. SE 48th Street is currently a dead end road serving more than 100 dwelling units. To comply with the secondary access requirements in KCRS 2.20, the subject plat shall not be recorded until a secondary access road is completed, as required for the plats of Cambria Div. 2 (File No. L97P0018) and Highland Creek Estates Div. 3 (File No. L97P0023).
 - e. Twenty feet of road right-of-way shall be dedicated along the frontage of Issaquah-Pine Lake Road. No road improvements are required within the right-of-way.
 - f. As provided in KCRS 5.03, street trees shall be included in the design of all road improvements.
 - g. SE 48th Street functions as a neighborhood collector street. It may require bus zones and turn outs. As specified in KCRS 2.16, the applicant's engineer shall contact Metro and the local school district to determine specific requirements for the frontage of the subject plat on SE 48th Street. Such requirements shall be included in the engineering plans for the plat.
 - h. In accordance with KCRS 9.05, the applicant shall submit a traffic control plan for development construction. The plan shall address methods to minimize construction impacts along SE 48th Street and improve traffic flow at the intersection with Issaquah-Pine Lake Road. A haul route shall be included to address routing, hours of operation, signage, flagging, and daily maintenance.
 - i. Modifications to the above road conditions may be considered by King County, pursuant to the variance procedures in KCRS 1.08.
9. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council, prior to final plat recording.
10. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
11. Lots within this subdivision are subject to KCC 21A.43 and Ordinance 12532 which imposed impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
12. There shall be no direct vehicular access to or from SE 48th Street from any lots in the subject plat. A note to this effect shall appear on the final plat and engineering plans.

13. If, at the discretion of the applicant, a planter island is provided within the permanent cul-de-sac bulb, it shall be maintained by the abutting lot owners or a homeowners association. This shall be stated on the face of the final plat and engineering plans if a planter island is provided.
14. The following note shall be shown on the final engineering plans and recorded plat:

**RESTRICTIONS FOR SENSITIVE AREA TRACTS AND
SENSITIVE AREAS AND BUFFERS**

Dedication of a sensitive area tract/sensitive area and buffer conveys to the public a beneficial interest in the land within the tract/sensitive area and buffer. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The sensitive area tract/sensitive area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/sensitive area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/sensitive area and buffer. The vegetation within the tract/sensitive area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/sensitive area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the sensitive area tract/sensitive area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

15. Determine the top, toe, and sides of 40% slopes by field survey. Provide a buffer from these slopes as noted below:
 - For buildings, provide a 25-foot buffer from the sides of all 40% slopes, and except for Lots 12, 13 and 14, provide a 50-foot buffer from the top and bottom of all 40% slopes. For Lots 12, 13, and 14, provide a 25-foot buffer from the sides and bottom of all 40% slopes.
 - For roads, provide a 10-foot buffer from the bottom of all 40 % slopes.

Designate all 40% slope areas and required buffers on the final plat and engineering plans as a "Sensitive Area and Buffer," or label Tract D as a "Sensitive Area Tract." Provide a 15-foot building setback line from all "Sensitive Areas and Buffers," or from Tract D, except where Tract D adjoins Road A.

16. The proposed subdivision shall comply with the sensitive areas requirements as outlined in KCC 21A.24. Permanent survey marking and signs, as specified in KCC 21A.24.160, shall be addressed prior to final plat approval. Temporary marking of sensitive areas and their buffers (e.g. with bright orange construction fencing) shall be placed on the site, and shall remain in place until all construction activities are completed.

17. Preliminary plat review has identified the following issues which apply to this project. All other applicable requirements for sensitive areas shall also be addressed by the applicant.
- a. The subject property is an erosion hazard area. The requirements found in KCC 21A.24.220 concerning erosion hazard areas shall be met, including seasonal restrictions on clearing and grading activities. (Note that the provisions of KCC 21A.24.220 are more restrictive than KCC 16.82.150D, which also apply to the site.)
 - b. As a minimum, a 25-foot-wide buffer shall be provided on the site from each side of the drainage feature contained in Tract F (without regard to whether such feature is or is not a stream), except where the features lies in an existing culvert, and except where right-of-way is provided for Issaquah-Pine Lake Road. The buffer and drainage feature shall be placed in a Sensitive Area Tract, and a 15-foot building setback shall be provided from the Tract.
 - c. Off-site, a drainage feature (which may or may not be a Class 3 stream), adjoins SE 48th Street near the southern end of Tract B. A 25-foot buffer shall be provided from this feature, to the extent such buffer falls within the subject property. The on-site buffer shall be placed within a Sensitive Area Tract, and a 15-foot building setback provided from the tract.
 - d. Required road improvements associated with the subject plat may encroach into the drainage feature and/or buffer noted in 17c above. If such encroachment occurs, the road improvement shall be designed and constructed consistent with KCC 21A.24.370G.
 - e. Required road improvements associated with the subject plat may encroach into an off-site wetland lying west of the subject property and on the south side of SE 48th Street. If such encroachment occurs, the road improvement shall be designed and constructed consistent with KCC 21A.24.330N. If mitigation for such encroachment cannot be provided adjacent to the wetland, as an alternative, mitigation shall be provided along the stream noted in 17c above, or as otherwise approved by LUSD.
18. Suitable recreation space shall be provided consistent with the requirements of KCC 21A.14.180 and KCC 21A.14.190. (i.e., sport court(s), children's play equipment, picnic table(s), benches, etc.).
- a. An overall conceptual recreation space plan shall be submitted for review and approval by LUSD, with the submittal of the engineering plans. This plan shall include location, area calculations, dimensions, and general improvements. The approved engineering plans shall be consistent with the overall conceptual plan.
 - b. A detailed recreation space plan (i.e., landscape specs, equipment specs, etc.), consistent with the overall conceptual plan referenced in item a., shall be submitted for review and approval by LUSD and the King County Parks Department, prior to or concurrent with the submittal of the final plat documents. The plans shall include fencing around the south, east and west boundaries of the recreation tract to prevent balls used in play from readily entering SE 48th Street.
 - c. A performance bond for recreation space improvements shall be posted prior to recording of the plat.

19. A homeowners' association or other workable organization shall be established to the satisfaction of LUSD which provides for the ownership and continued maintenance of the sensitive area tracts, recreation tracts and open space areas.
20. Street trees shall be provided along the frontage of the subject property on SE 48th Street as follows:
 - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation (KCDOT) determines that trees should not be located in the street right-of-way.
 - c. If KCDOT determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
 - d. The trees shall be owned and maintained by the homeowners association or other workable organization, unless the County has adopted a maintenance program. This shall be stated on the face of the final plat.
 - e. The species of trees shall be approved by DDES and KCDOT if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
 - f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by LUSD prior to engineering plan approval. KCDOT shall also review the street tree plan if the street trees will be located within the right-of-way.
 - g. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.

A \$538 landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current County fees.
21. A restriction shall be placed on the final plat which indicates that the lots in the plat cannot be developed with detached single-family residences unless a plat alteration is approved by King County.
22. Per the requirements of the Conditional Certificate of Transportation Concurrency issued for the subject plat (Certificate No. 0337, File No. 96-02-29-03), the applicant shall contribute \$7,200.00 to a Transportation Demand Management (TDM) program to reduced the generation of one peak hour trip on the Issaquah-Fall City Road critical link.

The following conditions have been established under SEPA authority as necessary to mitigate the adverse environmental impacts of this development. The applicant shall demonstrate compliance with these items prior to final approval.

23. To mitigate the impact the subject plat would otherwise have on the safe functioning of the intersection of Issaquah-Pine Lake Road / SE 48th Street, the applicant shall either:
- a. Individually or proportionally share with the plats of Highland Creek Estates Division III and Cambria Division II the construction of a north bound left turn lane on Issaquah-Pine Lake Road at SE 48th Street, *or*
 - b. Await final plat approval until King County CIP Project #200291 to widen Issaquah-Pine Lake Road from Issaquah-Fall City Road to 238th Way SE is within 12 months of construction.
24. Runoff from impervious surfaces subject to vehicle use or storage and/or transfer of chemicals, petroleum products or wastes must be treated to remove 50 percent of the annual average total phosphorus concentration before discharge to Lake Sammamish or its tributaries (either natural or engineered). This goal may be met by treating the water quality flow (defined below) with one of the following three on-site treatment options. The design of the facilities shall be approved by King County Water and Land Resources Division (WLRD). Other options that provide an equivalent level of pollutant removal are also acceptable, but must be approved by WLRD.

Option 1: A large wet-pond having a dead storage volume of at least 4.5 times the runoff from the mean annual storm. The mean annual storm is determined by dividing the annual rainfall (in inches) by the number of storms in a typical year. In the Lake Sammamish area, the mean annual storm ranges from 0.47 to 0.56 inches.

Option 2: A large sand filter treating 95% of the annual average runoff volume as computed by the KCRTS time series. If a detention facility does not precede the sand filter, a pre-settling pond or vault must be provided prior to the sand filter. The pre-settling pond must be sized to hold a volume of 0.75 times the runoff from the mean annual storm.

Option 3: A two-facility treatment train, with the first facility sized to treat the water quality flow (see below), and the second facility a sand filter sized to treat the flow from the first facility, or 90 percent of the annual average runoff volume as computed by the KCRTS time series.

The water quality flow is defined by one of the following:

- The flow generated by 64 percent of the 2-year, 24-hour precipitation (SBUH model),
- The flow generated by 60 percent of the developed 2-year peak flow rate (KCRTS model), or
- The flow associated with 95 percent of the annual average runoff volume in the KCRTS time series (typically restricted to sand filter sizing).

This condition is in lieu of the biofiltration required under Core Requirement #3 in the King County Surface Water Design Manual.

ORDERED this 5th day of February, 1999.

James N. O'Connor
King County Hearing Examiner

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) on or before February 19, 1999. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council on or before February 26, 1999. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE JANUARY 19, 1999 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT & ENVIRONMENTAL SERVICES FILE NO. L96P0019 - UPLANDS ON THE PLATEAU DIVISION 2:

James N. O'Connor was the Hearing Examiner in this matter. Participating in the hearing were Kim Claussen, Pete Dye, Richard Aramburu, Joel Haggard, and Lisa Rigg.

The following exhibits were offered and entered into the hearing record:

- Exhibit No. 1 LUSD File No. L96P0019
- Exhibit No. 2 LUSD staff report prepared for the January 19, 1999, public hearing
- Exhibit No. 3 February 4, 1998, letter from Lanny Henoch, LUSD, to the Applicant's representative, indicating that the revised application received on September 15, 1997, was determined to be complete on October 13, 1997
- Exhibit No. 4 SEPA environmental checklist signed by the Applicant's representative on March 4, 1996, and annotated by Lanny Henoch, LUSD, on September 15, 1998
- Exhibit No. 5 Re-issued SEPA Mitigated Determination of Nonsignificance, issued October 2, 1998
- Exhibit No. 6 October 16, 1998, letter from Robert W. Catterall, received October 19, 1998, appealing the SEPA determination (Exhibit No. 5). (Fee invoice attached to letter.)
- Exhibit No. 7 October 23, 1998, letter from J. Richard Aramburu, received October 23, 1998, appealing the SEPA determination (Exhibit No. 5)
- Exhibit No. 8 Affidavit of Posting received on December 31, 1998, indicating a notice was posted on the property on December 21, 1998, giving notice of the January 19, 1998, public hearing. (Eastside Consultants transmittal memo also attached)
- Exhibit No. 9 Plat map for the original application filed on September 9, 1996
- Exhibit No. 10 Plat map for a revised application filed on September 15, 1997
- Exhibit No. 11 Plat map for the revised design filed on October 22, 1998
- Exhibit No. 12 Land use map - Kroll maps 578W, 578E, 579W, and %79E
- Exhibit No. 13 King County Assessor Map for the SW 1/4 of 15-24-06
- Exhibit No. 14 "Traffic Impact Analysis...", dated September, 1997, prepared by David I. Hamlin & Associates
- Exhibit No. 15 "Geotechnical Investigation...", dated July 31, 1997, prepared by Dennis Joule
- Exhibit No. 16 October 6, 1998 letter from Dennis Joule, containing an "Addendum to the Recommended Slope Setbacks"

- Exhibit No. 17 January 10, 1999 letter from Jay Regenstreif, Sammamish Plateau Water & Sewer District
- Exhibit No. 18a Application for Road Standards Variance L98V0034, received March 18, 1998
- Exhibit No. 18b June 12, 1998 letter from Ronald J. Paananen concerning Variance L98V0034
- Exhibit No. 18c July 10, 1998 letter from Lisa Rigg, with an attached addendum to the application for Road Standards Variance L98V0034
- Exhibit No. 18d August 31, 1998 letter from Ronald Paananen concerning Variance L98V0034
- Exhibit No. 18e September 28, 1998 letter from Lisa Rigg, requesting reconsideration of the decision on Variance L98V0034
- Exhibit No. 18f October 30, 1998 letter from Ronald Paananen concerning Variance L98V0034
- Exhibit No. 19 Copy of recorded plat of The Uplands on the Plateau (6 sheets), with certain notes highlighted in yellow
- Exhibit No. 20 December 10, 1996 letter from Robert W. Catterall
- Exhibit No. 21 Faxed November 30, 1998 letter from Robert W. Catterall (letter was sent and received December 1, 1998)
- Exhibit No. 22 December 23, 1996 letter from Maynard P. Nelsen with three attachments
- Exhibit No. 23 October 21, 1998 letter from Greg Nelson, Buchan Homes, with attachment
- Exhibit No. 24 Two letters from Richard D. Starr, dated November 11, 1996 and February 22, 1998
- Exhibit No. 25 September 18, 1998 letter from Brian Moore
- Exhibit No. 26 November 6, 1998 e-mail letter from Joseph A. Bulger, Jr.
- Exhibit No. 27 November 22, 1998 e-mail letter from Mary & Norb Ziegler
- Exhibit No. 28 November 10, 1998 e-mail letter from Jeff Marcin
- Exhibit No. 29 November 30, 1998 letter from Joseph Elfelt
- Exhibit No. 30 December 1, 1998 e-mail letter from Lesley Wilson
- Exhibit No. 31 December 23, 1998 e-mail letter from Clinton H. Webb
- Exhibit No. 32 Settlement Agreement
- Exhibit No. 33 Diagram of monument relocation and Tract X
- Exhibit No. 34 Letter (with attachments) dated September 29, 1998 from Joel Haggard to Manuela Winter
- Exhibit No. 35 Diagram showing plat with Lot 33 deleted
- Exhibit No. 36 Diagram showing relocation of Lot 34
- Exhibit No. 37 Modified Condition 7.f
- Exhibit No. 38 Revised preliminary plat map as described by applicant at January 19, 1999 public hearing

TRANSMITTED this 5th day of February, 1999, to the following parties and interested persons:

Joseph Amedson	Evan George	Fred Milkie
Richard Aramburu	Skip Greene	Brian Moore
Brian & Kimberly Armstrong	James A. Greenfield	Daniel & Renata Moran
Jack & Dorothy Barker	Ronald Hagedorn	Greg Nelsen
William Bennett	Joel Haggard	Maynard Nelsen
Lawrence & Cathy Blackett	William & Gina Haines	Tuan NGuyen
Brookshire Estates HOA	Tom & Jeanne Harman	Susan Raisi
William & Karen Buchan	Peter Hayes	Lisa Rigg
Larry & Ellen Buffington	Mark Hinthorne	Nancy Ryan
Robert W. Catterall	Hudgin & Marian Hinton	Alfred & Vivian Sauerbrey
Chateau Development, Inc	D.W. Irons	Martha & Roy Seabourne
Valiant & Myrna Chou	Marilyn and Robert Ittes	Seattle-King County Health Dept
Richard A. Cook	John L Scott Land Department	Sharon & Ernesto Simas
Mike Cowan	Roddie Jones	Jim Stanton
Carolyn Crawford	Susan Judge	Richard D. Starr
Jared Curtis	King Conservation District	Kathleen Steoger
Guy & Susan DeFlorio	Thomas Klemens	Erick Thompson
Alan Dick & Kristine Morgan	Eugene & Betty Klineburger	Liz Tickman
Robert & Diane Diens	Lothar & Marion Koob	Gary Upper
Bert Downey	Gary Kriedt	Carl & Claudine Uthus
Eastside Consultants, Inc	Richard D. MacGibbon	Lloyd Warren
Vali Eberhardt	Linda Matlock	Clinton Webb
Joseph Elfelt	Ralph & Noreen McBride	Philip & Joan Zaluska
Joseph & Beryl Falvey	Jeanette McKague	Mary & Norb Ziegler
Sharon Freechtle	Murray McLeod	Greg Borba

Steve Bottheim
Laura Casey
Kim Claussen
Pete Dye
Dick Etherington

Barbara Heavey
Lanny Henoch
David Mark
Dennis McMahon
Aileen McManus

Paulette Norman
Carol Rogers
Steven C. Townsend
Caroline Whalen

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